

REMARKS

Claims 1-47 remain pending in the application.

Status of Related Applications

The Examiner requests a status of a related Application disclosed by Applicant be updated.

The Applicants' specification is amended herein to update the status of the related Application. The Applicants respectfully request the request to update the status of the related Application be withdrawn.

35 USC 112 Second Paragraph Rejection of Claim 20

The Office Action rejected claim 20 as allegedly being indefinite under 35 USC 112.

Claim 20 has been reviewed and is amended where appropriate. It is respectfully submitted that claim 20 is now in full conformance with 35 USC 112. It is respectfully requested that the rejection be withdrawn.

Claims 1-10, 15 and 17-47 over an Aether Confidential Reference

In the Office Action, claims 1-10, 15 and 17-47 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Aether Technologies confidential copy of "AIM.net Architecture Version 1.1" ("Aether Confidential Reference"). The Applicants respectfully traverse the rejection.

The Aether Confidential Reference is clearly marked "**not** indeed for distribution outside of Aether" on page 6. The Aether Confidential Reference was not "published" for public disclosure and does not qualify as prior art under 35 U.S.C. § 102(b). The Applicants are herein submitting an Affidavit to support the fact that the the Aether Confidential Reference's was not intended for distribution outside of Aether.

Thus, the document was not "published" for public disclosure and does not qualify as prior art under 35 U.S.C. § 102(b). Because this rejection is not based on prior art, it cannot properly stand. The Applicants respectfully request the rejection of claims 1-10, 15 and 17-47 be withdrawn.

Claims 11-14 and 16 over an Aether Confidential Reference in view of Meyer

In the Office Action, claims 11-14 and 16 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Aether Confidential Reference in view of U.S. Patent No. 6,778,099 to Meyer et al. ("Meyer"). The Applicants respectfully traverse the rejection.

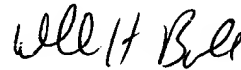
As discussed above, the Aether Confidential Reference does not qualify as prior art.

Since the rejection of claims 11-14 and 16 cannot stand on Meyer alone, the Applicants respectfully request the rejection of claims 11-14 and 16 be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



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AFFIDAVIT

1. My name is Bob Bialozynski, and I was employed by Aether Technologies on or about December 20, 2000.

2. Aether Technologies' confidential document entitled AIM.net Architecture Version 1.1 (copy attached), was an internal company document as of December 20, 2000, not intended to be viewed by persons outside of Aether Technologies. The document itself so states on page 6.

3. I declare under penalty of perjury that the foregoing is true and correct.

Robert M. Bialozynski, Jr.

Signature

Director of Engineering

Title

3/10/2005

Date